CONFERENCE ON DISARMAMENT

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REPORT OF THE AD HOC COMMITTEE ON
PREVENTION OF AN ARMS RACE IN OUTER SPACE

I. INTRODUCTION

1. At its 666th plenary meeting on 25 January 1994, the Conference on Disarmament re-established an Ad Hoc Committee on the item "Prevention of an Arms Race in Outer Space" with the mandate contained in document CD/1125 of 14 February 1992.

II. ORGANIZATION OF WORK AND DOCUMENTS

2. At its 669th plenary meeting on 3 February 1994, the Conference on Disarmament appointed Ambassador Perez Novoa of Cuba as Chairman of the Ad Hoc Committee. Mr. Vladimir Bogomolov, Political Affairs Officer, United Nations Centre for Disarmament Affairs, continued to serve as the Committee's Secretary.

3. The Ad Hoc Committee held 19 meetings between 15 February and 23 August 1994.

4. In addition to the documents of the previous sessions[1/] the Ad Hoc Committee had before it the following documents relating to the agenda item submitted to the Conference on Disarmament during the 1994 session:

1/ The List of Documents of the previous Sessions may be found in the 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992 and 1993 Reports of the Ad Hoc Committee (CD/642, CD/732, CD/787, CD/870, CD/956, CD/1039, CD/1111, CD/1165 and CD/1217 respectively), and in the special report to the Third Special Session of the General Assembly devoted to Disarmament (CD/834).

CD/OS/WP.68	1994 Programme of Work
CD/OS/WP.69	Draft Guidelines regarding Measures on Confidence Building and Predictability in Outer Space Activities (by Alexander V. Vorobiev, Friend of the Chairman)
CD/OS/WP.70	Paper by Professor N. Ronzitti (Italy), (Friend of the Chair on Terminological and Legal Issues) - Legal Definitions
CD/OS/WP.71	Questionnaire on Legal and Terminological Issues - (Friend of the Chair, Professor N. Ronzitti, Italy)
CD/OS/WP.72	Outer Space and Modern Conflict - Some Reflections on Military and Security Related Space Uses and Associated Legal Policy Issues - (Dr. Wulf von Kries, Germany)
CD/OS/WP.73	Runaway proliferation of orbital debris: security implications and possible cooperative responses - (Professor P. Farinella, Italy)
CD/OS/WP.74	Summary of Experts' Presentations
CD/OS/CRP.16 and Corr.1[2/]	Resumé by the Friend of the Chairman of Proposals and the Course of Discussions on Confidence-Building Measures in Outer Space

III. SUBSTANTIVE WORK DURING THE 1994 SESSION

5. Following consultations on the organization of work at its first meeting on 15 February 1994, the Ad Hoc Committee adopted the following Programme of Work for the 1994 Session:

"1. Examination and identification of issues relevant to the prevention of an arms race in outer space.

2. Existing agreements relevant to the prevention of an arms race in outer space.

3. Existing proposals and future initiatives on the prevention of an arms race in outer space.

In carrying out its work with a view to finding and building upon areas of convergence, the Ad Hoc Committee will take into account relevant proposals, initiatives and developments since the establishment of the Committee in 1985 including those presented at the 1993 session of the Conference on Disarmament.

The practice of appointing Friends of the Chairman to organize open-ended consultations on issues of specific interest to the Committee should continue."

2/ CD/OS/CRP.16/Corr.1* - reissued in English only

6. The Ad Hoc Committee agreed that it would give equal treatment to the subjects covered by its mandate and specified in its Programme of Work. Accordingly, the Committee agreed to allocate the same number of meetings to each of those subjects, while any member wishing to do so may discuss any subject important and relevant to the work of the Committee.

7. The work of the Ad Hoc Committee was governed by the mandate which aims at the Prevention of an Arms Race in Outer Space.

8. During the meetings of the Ad Hoc Committee, various Groups and individual delegations reaffirmed their respective positions which can be found in the previous annual reports of the Committee, related Conference documents and Working Papers, and Plenary Records, or further elaborated on them as indicated in subsequent paragraphs.

9. The Ad Hoc Committee once again benefitted from the scientific and technical contributions of experts from various delegations, who addressed the following specific issues and initiatives under consideration in the Committee:

- "Feasibility of different measures envisaged for a Code of Conduct" - Mr. F. Alby (France)
- "Runaway proliferation of orbital debris: security implications and possible cooperative responses" - Professor P. Farinella (Italy)
- "Outer Space and Modern Conflict - Some Reflections and Security Related Space Uses and Associated Legal Policy Issues" - Dr. W. von Kries (Germany)

The summary of those presentations is contained in document CD/OS/WP.74 dated 15 August 1994. The Committee expressed its appreciation to the delegations who provided these contributions.

10. The Ad Hoc Committee carried out substantive work on legal and terminological issues and on confidence-building measures during the consultations held by the Friends of the Chair who were appointed by the Chairman to deal with the following issues without prejudice to positions of delegations in open-ended consultations:

(i) confidence-building measures in outer space (Mr. Alexander V. Vorobiev, Delegation of the Russian Federation)

(ii) terminology and other relevant legal aspects related to prevention of an arms race in outer space (Mr. Natalino Ronzitti, Delegation of Italy).

Summary of the efforts of the Friends of the Chairman

(a) On legal and terminological issues the discussion in the Committee was stimulated by Questionnaires and Working Papers submitted by the Friend of the Chair (documents CD/OS/WP.70 dated 1 July 1994 and CD/OS/WP.71 dated 1 August 1994). These papers took stock of the work already done in previous years on this subject and of existing proposals. The questionnaire (document CD/OS/WP.71) was drafted in order to find out, inter alia, whether the existing Space Treaties were sufficient for the prevention of an arms race in outer space and, in the event of a negative response, what kind of legal instrument or measures should be employed for filling in any existing lacuna. In this context besides drafting new instruments, other legal techniques were also explored, such as Treaty revision, the conclusion of additional protocols, the establishment of CBMs complementing existing Agreements, or the conclusion of a new international agreement or agreements. Delegations found the question of terminological issues important, even though it was generally held that the completion of work on terminology was not a conditio sine qua non for negotiating new instruments or measures for the prevention of an arms race in outer space. Since many existing instruments contained legal definitions, the Friend of the Chair suggested that a possible approach might consist of making a compilation of terms already defined. In effect, definitions of legal terms could be found both in multilateral and bilateral Treaties on outer space and, to a certain extent, even in recent resolutions. Existing proposals also could constitute a source of definitions of legal terms.

(b) The Friend of the Chair on confidence-building measures proposed to the Committee to discuss CBMs on the basis of the table contained in document CD/OS/WP.58 dated 12 March 1993. The delegations agreed to this proposal and considered individually each of the three main clusters of CBMs as set out in the table: measures to improve the transparency of pre-launch activities; rules-of-the-road measures; and measures required for monitoring purposes in connection with the proposed code of conduct. Proceeding from the course of the discussions on the substance of the confidence-building measures which took place in the Ad Hoc Committee during the first part of the 1994 session and previous years, the Friend of the Chair presented, at his own discretion, a resumé of the existing proposals and the discussions held (CD/OS/CRP.16 of

17 May 1994) and the "Draft Guidelines regarding measures on confidence-building and predictability in outer space activities (CD/OS/WP.69 of 1 July 1994). The latter Working Paper also contained a questionnaire which covered some of the bigger issues raised by the delegations in regard to the Draft Guidelines. Some of the initial observations of the delegations regarding the Draft Guidelines concerned the format of the document and its choice of CBMs. At the same time, an observation was made that the Draft Guidelines could serve as a possible basis for further work on CBMs. The Friend of the Chairman proposed to depart from the discussions on the format of the document on CBMs and to come to this issue when a better understanding on the substance of the CBMs in outer space was reached. At the subsequent consultations the delegations commented on the scope of the exchange of information and notifications, as well as the time frame for providing them, on the establishment of an international outer space monitoring system and a communications network, and on the issue of whether elaborate notifications for space objects with nuclear power sources and assessment of compliance should be part of the CBMs régime. Pointing to the need for more comments from the delegations for that purpose, the Friend of the Chairman proposed to try at the next session to incorporate the views of the delegations in the Draft Guidelines or another consolidated document.

The Committee voiced its appreciation of the work by the Friends of the Chair and their organization of open-ended consultations.

Summary of the general discussions

11. During the annual session in the course of the debates, as well as in the open-ended consultations, the attention of the Committee was drawn to the issues of the adequacy of the current legal régime, confidence-building measures in outer space activities, and terminological aspects of the work of the Committee.

12. Members of the Group of 21 and China maintained that the prevention of an arms race in outer space would pave the way for the exploration and peaceful uses of outer space solely for the common interest and benefit of mankind. Those delegations emphasized that the existing legal instruments relating to outer space were far from effective in preventing an arms race in outer space. The same delegations, as well as the Russian Federation, pointed out

that those legal instruments did not prevent launching into space and testing in space of conventional weapons as well as weapons based on new physical principles, such as lasers, very high frequency weapons, particle beam weapons and others. Delegations of the Group of 21 and China expressed concern that given the similarities of requisite technology, the unrestrained development of ballistic missile defences could lead to development of ASAT weapons. These delegations further shared the views expressed by, inter-alia, the delegations of Indonesia and China that certain space powers were still engaged in activities which may lead to an arms race in outer space. In this respect they felt that States with advanced technology and capabilities had special responsibilities for the discontinuance of all weapon-related activities adversely affecting the peaceful uses of outer space. They were of the view that the Ad Hoc Committee had also to address the question of the demilitarization of outer space. The above-mentioned delegations maintained that the task of preventing an arms race in outer space was still of importance and urgency. They believed that the international political situation was now conducive to the conclusion of a treaty banning an arms race in outer space which should be universal, comprehensive, legally-binding, multilateral and effectively verifiable. Some members of the Group of 21 stressed that the voluminous and relevant documentation produced in the Ad Hoc Committee since its establishment in 1985 on the subject could constitute a basis for the rapid elaboration of a legal régime that prevents an arms race in outer space. They suggested that the Committee should examine, inter alia, the proposals which had been made over the years to amend Article IV of the Outer Space Treaty of 1967 to include the prohibition of all types of space weapons. Some of them specifically referred to the idea of a ban on the testing, development and deployment of ASATs. In this regard, this group of delegations stressed that the Committee should also examine the reinforcement of existing legal instruments by more effective implementation and broader participation of States. Germany and Algeria felt that the time was right to put into practice the concrete proposals made by France, the former USSR, and Canada, with regard to the setting up of international agencies under the auspices of the UN, entrusting them with monitoring functions in outer space.

13. Some delegations of the Western Group considered that the UN Charter, the existing multilateral treaties relating to outer space, and the outer space related arms control provisions of other multilateral and bilateral treaties

(such as the 1963 Partial Test Ban Treaty, the 1972 ABM Treaty, the 1977 ENMOD Convention, the 1986 Convention on Assistance in case of a Nuclear Accident or Radiological Emergency, the 1992 International Telecommunication Constitution and Convention, and the 1993 START II Treaty), together with customary international law, as well as the domestic law of individual nations, interacted and complemented each other in such a way, that together they provided an equitable, practical, balanced and extensive legal system for ensuring the use of outer space for peaceful purposes. Those delegations maintained that there was no arms race in outer space, nor was there any indication of significant on-going development by any State with respect to arms in space. Therefore, in their view there was no need for new legally-binding instruments, or a need to revise existing agreements in this respect. Instead, wider adherence to existing Agreements should be encouraged.

14. Some delegations of two regional Groups stated that the end of the "cold war" had brought considerable changes to the major space Powers' activities and to their national legislature. In particular it was mentioned that in August 1993 the "Law of the Russian Federation on the space activity" had been adopted which corresponded to the existing international obligations of the country regarding the prevention of an arms race in outer space, and in certain aspects went even further. In March 1994 the USA announced a new policy on "foreign access to remote sensing space capabilities". It was characterized as an attempt in space-related security regulation and an example of the emerging need for concerted policy and legal action by the international community in the domain of "space for security" uses.

15. Various members of different regional groups viewed CBMs primarily as an important step on the way to the prevention of an arms race in outer space; others viewed CBMs, as such and independently, as useful measures which could increase confidence in relation to States' activities in outer space. In this regard, some delegations addressed anew, or further developed, proposals aimed at increasing the transparency of space operations generally, the range of information concerning satellites in orbit, as well as those that would establish rules of behaviour governing space operations. Some delegations suggested that the Committee should take advantage of the commonly shared view on the stabilizing role of CBMs and should start developing concrete CBMs, once their relevance and feasability for arms control purposes would be agreed

upon. In this connection some delegations furthermore proposed that the Committee start developing a régime of notification of launches of space objects and ballistic missiles which would supplement the 1975 Registration Convention, as well as CBMs on "rules of the road" relating to space debris, manoeuvres in outer space, or the establishment of keep-out zones. Some delegations also noted that the growing convergence of views on the elaboration of measures designed to strengthen transparency, confidence and security, could facilitate developing concrete CBMs. Delegations of the Group of 21 and China emphasized that because of the supplementary and interim nature of CBMs, work in the Ad Hoc Committee should not be devoted solely to the formulation of CBMs and should in no way detract, retard or negatively affect, the attainment of its primary objective, namely, the conclusion of an international agreement, or agreements, on the prevention of an arms race in outer space, with a view to reinforcing the existing legal régime. Delegations of the Group of 21 felt that work on CBMs should be carried out in parallel with the primary concern and objective of the Ad Hoc Committee. Those delegations, along with China, believed that any CBMs agreed to should be ones which could form part of a legally-binding, multilaterally negotiated instrument on the prevention of an arms race in outer space. Egypt suggested that the countries with space activities could also voluntarily implement CBMs which they may agree to amongst themselves. Some delegations of the Group of 21 proposed that transparency and CBMs in outer space should be comprehensive and notification of space objects should extend to those objects launched in the past, even prior to 1975, and not limited only to the objects to be launched in the future. Some delegations of the Western Group, one delegation of the Eastern European Group, as well as one delegation not belonging to any regional Group, were of the opinion that this latter proposal was neither useful nor realistic.

16. China, Egypt and India reiterated that work on terminology should serve the basic purpose of formulating new international legal instruments aimed at prevention of an arms race in outer space. Egypt and India stated that harmonization of work was however not likely unless a negotiating mandate is given to the Ad Hoc Committee. China further considered that the initial work on terminology should be the identification and clarification of relevant terms.

IV. CONCLUSIONS

17. Closer coordination between the Ad Hoc Committee on Prevention of an Arms Race in Outer Space and the Committee on Peaceful Use of Outer Space on the issues of mutual concern was favoured.

[18. It was agreed that substantive work on all these issues should continue at the next session of the Conference. Therefore, it was recommended that at the beginning of the 1995 session, the Conference on Disarmament re-establish the Ad Hoc Committee on Prevention of an Arms Race in Outer Space with an appropriate mandate, taking into account the work undertaken since 1985.]*

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* The brackets requested by the Western Group at the last meeting of the Ad Hoc Committee held on 23 August 1994 are not related to the substantive issues discussed by the Committee.